

§ 105-164.42I. Contract with certified service provider and effect of contract.

(a) Certification. – The Secretary may certify an entity as a certified service provider if the entity meets all of the following requirements:

- (1) The entity uses a certified automated system.
- (2) The entity has agreed to update its program upon notification by the Secretary.
- (3) The entity integrates its certified automated system with the system of a seller for whom the entity collects tax so that the tax due on a sale is determined at the time of the sale.
- (4) The entity remits the taxes it collects at the time and in the manner specified by the Secretary.
- (5) The entity agrees to file sales and use tax returns on behalf of the sellers for whom it collects tax.
- (6) The entity enters into a contract with the Secretary and agrees to comply with all the conditions of the contract.

(b) Contract. – The Secretary may contract or authorize in writing the Streamlined Sales Tax Governing Board to contract on behalf of the Secretary with a certified service provider for the collection and remittance of sales and use taxes. A certified service provider must file with the Secretary or the Streamlined Sales Tax Governing Board one of the following in the amount set by the Secretary: (i) a bond; (ii) an irrevocable letter of credit; or (iii) evidence of a certificate of deposit. A bond, irrevocable letter of credit, or certificate of deposit must be conditioned upon compliance with the contract, be payable to the State or the Streamlined Sales Tax Governing Board, and be in the form required by the Secretary or the Streamlined Sales Tax Governing Board. The amount a certified service provider charges under the contract is a cost of collecting the tax and is payable from the amount collected.

(c) Liability. – A seller may contract with a certified service provider to collect and remit sales and use taxes payable to the State on sales made by the seller. A certified service provider with whom a seller contracts is the agent of the seller. As the seller's agent, the certified service provider, rather than the seller, is liable for sales and use taxes due this State on all sales transactions the certified service provider processes for the seller unless the seller misrepresents the type of products it sells or commits fraud. A seller that misrepresents the type of products it sells or commits fraud is liable for taxes not collected as a result of the misrepresentation or fraud.

(d) Audit and Review. – In the absence of misrepresentation or fraud, a seller that contracts with a certified service provider is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The State may perform a system check of a seller and review a seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider. A certified service provider is subject to audit. (2000-120, s. 2; 2001-347, ss. 1.1, 1.3; 2005-276, s. 33.31; 2013-414, s. 44; 2016-5, s. 3.18.)